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NXP, B.V. NXP INTELLECTUAL PROPERTY & LICENSING M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			LEIBOVICH, YAIR	
			ART UNIT	PAPER NUMBER
			2114	
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			06/24/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,181	<b>Applicant(s)</b> PISARSKI, VLADIMIR	
	<b>Examiner</b> YAIR LEIBOVICH	<b>Art Unit</b> 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4/7/2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-4 and 6-34 have been considered but are moot in view of the new ground(s) of rejection.

2. It is suggested that applicant add limitations from page 1 and/or other locations in the specification pertaining to the environment of the invention, and the uniqueness/purposeful of the network and files, for example re-distribution of essentially the same file, even after modification (example of such file in page 1 line 6 of the instant application's specification).

3. Applicant's arguments with respect to claims 5, 7-9, and 32 have been fully considered but they are not persuasive, because features upon which applicant relies (i.e., "degrading", including more than two levels, and "not pass/fail type characteristic", as applicant refers to as not in accordance with the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition:

- Examiner directs applicant to additional references in form 892, citing "ranking" or "rating" of nodes based on performance or reliability.
- Examiner submits that confirmations of unsuccessful and successful downloads are essentially similar.<sup>9</sup>
- Examiner submits that the existence of source node suggests a recipient node.
- Examiner submits that "reporting success..." suggests error reports.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2)

5. Claims 5, 7-9, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Yu (US 2003/0061287 A1).

For claim 5, Yu teaches a method of facilitating control of distribution of modified or corrupted files in a distributed network (see figure 3C block 138: “eliminate unreliable” as control), the method comprising: providing a catalog of available files to nodes of the distributed network (see figure 3C block 130 and [0019] lines 4-5), the catalog identifying each file of the available files and a corresponding source node of each file (see figure 3C block 130 and [0019] lines 4-5), processing an error report from a target node that received a downloaded file from a selected source node (see [0009] line 17: “black listing” as processing), verifying the error report (see figure 3E blocks 162 and 164: “delete errors in the report” and comparing to a “threshold” as verifying the error report), degrading a trustworthy-measure of at least one node of the distributed network based on a result of verifying the error report (see [0009] line 17: “black listing” as degrading measure), and providing the trustworthy-measure of the at least one node to other nodes of the distributed network (see [0025] lines 9-11 and [0023] line 17; blacklisting effectively provides the trustworthy-measure to other nodes by not allowing the blacklisted to further participate).

For claim 7, Yu teaches the limitations of claim 5 for the reasons above and further teaches the error report is based on at least one of: a modification of an original version of the downloaded file, and an abnormality associated with the downloaded file (see abstract line 17: “corrupt” as abnormality and modification).

For claim 8, Yu teaches the limitations of claim 5 for the reasons above and further teaches verifying the error report is based upon an identifying code corresponding to an original version of the downloaded file (see figure 1: server 12 uses data in blocks 35 and 40 which are used in the verification process in figure 3E blocks 162 & 164 to identify the correct object to manipulate).

For claim 9, Yu teaches the limitations of claim 8 for the reasons above and further teaches the catalog includes the identifying code (see figure 1 as the list/catalog of all pertinent information including block 35 as the identifying codes).

For claim 32, Yu teaches the limitations of claim 5 for the reasons above, and further teaches verifying the error report includes determining an originator node responsible for modifications to the downloaded file giving rise to the error report (see [0007] line 10).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2114

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-4, 6, 10-14, 16-20, 25, 27-29, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu (US 2003/0061287 A1) in view of Carpenter (US 2002/0059429 A1).

For claim 1,

- Yu teaches a method (see title) of affecting a trustworthy-measure associated with a source node (see figure 3C block 138) in a distributed network (see abstract line 2), the method comprising: receiving an information file from the source node (see abstract line 1: "delivering" as receiving) and a corresponding identifying code that is based on content of the information file when the information file is introduced to the network (see abstract lines 5-6), and computing an associated code based on received content of the information file (see abstract line 12); comparing the associated code with the identifying code (see abstract line 12); transmitting an error report to an administrator node(see figure 3D block 152, and further in [0009] lines 16-17), the error report identifying the source node and the information file (see [0009] lines 16-17), when at least one of the following occur: the associated code does not correspond to the identifying code (see abstract lines 13-14), and the content of the information file is abnormal (see abstract lines 17).
- Yu does not explicitly teach "and reducing the value ... in response to the error report, thereby ... subsequent use of the source node" (although it is suggested).
- However, Carpenter teaches and reducing the value of the trustworthy-measure associated with the source node in response to the error report (see abstract line

Art Unit: 2114

15), thereby providing the reduced value trustworthy measure for evaluating subsequent use of the source node (see abstract line 16).

- It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yu to include “and reducing the value ... in response to the error report, thereby ... subsequent use of the source node”, as taught by Carpenter, because both Yu and Carpenter teach monitoring nodes in a network therefore they are analogous arts; and for the purpose of improving utilization of shared resources of the network and fault avoidance (see abstract).

For claim 3,

- The combination of Yu and Carpenter teaches the limitations of claim 1 for the reasons above.
- Yu further teaches identifying code includes at least one of: a control-sum-code (see [0037] line 9), and a hash-value (see [0003] line 5).

For claim 4,

- The combination of Yu and Carpenter teaches the limitations of claim 1 for the reasons above.
- Yu further teaches error report includes the associated code and the identifying code (see figure 1B block 35: block server 12 includes error detecting codes 35, obtained from error reports)

Art Unit: 2114

For claim 6,

- Yu teaches the limitations of claim 5 for the reasons above and further teaches the catalog includes a parameter that is based on the trustworthy-measure of each source node (see figure 3E block 164: threshold parameter).
- Yu does not explicitly teach “degrading ... non-zero ... the node” (although it is suggested).
- However, Carpenter teaches “degrading a trustworthy-measure includes degrading a trustworthy-measure of a node to a non-zero value that is less than a previous value of the trustworthy-measure of the node” (see [0026] line 12: “highest”, and abstract lines 15-16: “lowered” and “may be avoided” suggests more than two levels/ lowered to non-zero level).
- It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yu to include “degrading ... non-zero ... the node”, as taught by Carpenter, because of the motivational reasoning specified in claim 1.

For claim 10,

- The claim essentially recites similar limitations from the combination of claims 1 & 5.

For claim 11,

- The combination of Yu and Carpenter teaches the limitations of claim 10 for the reasons above.
- Yu teaches further teaches determining the validity of the report includes: receiving, from the source node, the information file and a corresponding identifying code that



Art Unit: 2114

is based on content of the information file when the information file is introduced to the network, computing a verification code based on received content of the information file, comparing the verification code with the identifying code (see [0043] lines 6-10: different node being the source node).

For claim 12,

- The combination of Yu and Carpenter teaches the limitations of claim 10 for the reasons above.
- Yu teaches further teaches degrading a trustworthy-measure associated with the reporting node when the report is determined to be invalid (see [0025] lines 8-11 for server-client downloads, and [0020] line 9 & 13 for “noncommercial” and “token”: the error report is a non commercial token that is downloaded to the server; the method applies to all downloadable files including the non-commercial tokens, so a report-file-token would be invalidated if it is corrupt).

For claim 13,

- The combination of Yu and Carpenter teaches the limitations of claim 10 for the reasons above.
- The claim essentially recites additional and similar limitations from the combination of claims 5 and 6.

For claim 14,

- The combination of Yu and Carpenter teaches the limitations of claim 10 for the reasons above.

Art Unit: 2114

- Yu further teaches determining the validity of the report includes notifying the source node of the report, and assessing a response from the source node to determine the validity of the report (see [0021] line 2 for “business rules” and [0025] lines 8-11 for server-client downloads and [0020] line 9 & 13 for “noncommercial” and “token”: the validation report is a non commercial token file with expectation for reply according to the business rules; a person of ordinary skill in the art would confirm that such maintenance file transfers are necessary for compliance with the business rules).

For claim 16,

- The combination of Yu and Carpenter teaches the limitations of claim 14 for the reasons above.
- Yu further teaches assessing the response includes assessing the reliability of at least one of: the information file, the source node, and the reporting node (see [0009] line 17: black listing nodes mandates that all relevant nodes in the black list must be considered/assessed).

For claim 17,

- The combination of Yu and Carpenter teaches the limitations of claim 10 for the reasons above.
- Yu further teaches determining the validity of the report includes determining a reliability of the source node and determining the reliability of the source node is based on at least one of: the trustworthy-measure of the source node (black list in [0009] line 17 and threshold as in figure 3E block 164), longevity of the source node

Art Unit: 2114

within the distributed network (figure 3E block 162 is a measure of time which longevity information can be drawn from), traffic flow via the source node (see figure 3C block 138: “bandwidth” as traffic flow capability), and prior activities of the source node (errors followed by being blacklisted).

For claim 18,

- The combination of Yu and Carpenter teaches the limitations of claim 17 for the reasons above.
- The claim recites similar limitations from claim 17 except that the limitations relate to the reliability of the reporting node. Yu teaches said limitations applying to all nodes (see [0009] lines 17-18 as an example for traffic flow);

For claim 19,

- The combination of Yu and Carpenter teaches the limitations of claim 10 for the reasons above.
- Yu further teaches determining the validity of the report includes a verification of prior ownership of the information file (see figure 3C block 130: the list includes all owners, previous included).

For claim 20,

- The claim essentially recites similar limitations from claim 1 except for communication network with an administrator node. Yu teaches communication network with an administrator node (see abstract line 3).

Art Unit: 2114

For claim 25,

- The claim essentially recites similar limitations from the combination of claims 5-6, and 11.

For claim 27,

- The combination of Yu and Carpenter teaches the limitations of claim 25 for the reasons above;
- The claim essentially recites additional and similar limitations from the combination of claims 17-19;

For claims 28 and 29,

- The combination of Yu and Carpenter teaches the limitations of claim 25 for the reasons above;
- The claims essentially recites additional and similar limitations from claims 5 and 6 respectively;

For claim 33,

- The combination of Yu and Carpenter teaches the limitations of claim 32 for the reasons above;
- The claim essentially recites similar and additional limitations from claim 14.

8. Claims 2, 15, 21-24, 26, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Yu (US 2003/0061287 A1) in view of Carpenter (US 2002/0059429 A1), and in further view of official notice.

Art Unit: 2114

For claim 2,

- The combination of Yu and Carpenter teaches the limitations of claim 1 for the reasons above.
- Yu further teaches repeating the receiving, computing, and comparing steps prior to transmitting the error report (see [0023] lines 13-15).
- The combination of Yu and Carpenter does not explicitly teach “wherein transmitting an error report includes transmitting an error report in response to the step of comparing (as recited in claim 1) indicating that a difference between the associated code and the identifying code is not caused by a communication error” (although Carpenter discussed identifier used for verification, that could be construed as generic).
- However, official notice is taken that viruses and virus identification programs are known in the art as comparing in the same manner claimed wherein differences identified are not associated with communication errors.
- It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Yu and Carpenter to include “wherein transmitting ...difference ... not caused by a communication error”, as taught by taken official notice, because both virus identification programs are known in the art.

For claim 15,

- The combination of Yu and Carpenter teaches the limitations of claim 14 for the reasons above.

Art Unit: 2114

- Yu further teaches assessing the response includes: determining that the report is valid if the response is a null-response (this rule falls under the business rules mentioned in claim 14 rejection; a person of ordinary skill in the art would confirm that a null-response reply is not sufficient to change the report-state), or an admittance of effecting the modification or corruption of the information (non-commercial token that falls under the business rules), and revising the report to identify an alternative source of the modification or corruption of the information, if the response includes an acknowledgement of the modification or corruption (see figure 3C and block 138 and figure 3D block 154).
- The combination of Yu and Carpenter does not explicitly teach “receiving ... not caused by a communication error”.
- However, official notice is taken that viruses and virus identification programs are known in the art as comparing in the same manner claimed wherein differences identified are not associated with communication errors.
- It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Yu and Carpenter to include “wherein transmitting ...difference ... not caused by a communication error”, as taught by taken official notice, because both virus identification programs are known in the art.

For claims 21 and 22,

- The combination of Yu and Carpenter teaches the limitations of claim 20 for the reasons above and essentially recites additional and similar limitations from claims 5 and 11.

Art Unit: 2114

- The combination of Yu and Carpenter does not explicitly teach “by verifying ... not based upon a communication error”.
- However, official notice is taken that viruses and virus identification programs are known in the art as comparing in the same manner claimed wherein differences identified are not associated with communication errors.
- It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Yu and Carpenter to include “by verifying ... not based upon a communication error”, as taught by taken official notice, because both virus identification programs are known in the art.

For claim 23,

- The combination of Yu, Carpenter, and official notice teaches the limitations of claim 21 for the reasons above;
- The claim essentially recites additional and similar limitations from the combination of claims 17-19;

For claim 24,

- The combination of Yu, Carpenter, and official notice teaches the limitations of claim 23 for the reasons above;
- The claim essentially recites additional and similar limitations from the combination of claims 5-6;

Art Unit: 2114

For claim 26,

- The combination of Yu and Carpenter teaches the limitations of claim 25 for the reasons above and essentially recites additional and similar limitations from claims 5 and 11.
- The combination of Yu and Carpenter does not explicitly teach “to determine ... communication error”.
- However, official notice is taken as noted above.
- It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Yu and Carpenter to include “to determine ... communication error”, as taught by taken official notice, because of the motivational reasons specified above.

For claim 34,

- The combination of Yu and Carpenter teaches the limitations of claim 33 for the reasons above;
- The claim essentially recites similar and additional limitations from claim 15.

9. Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu (US 2003/0061287 A1) in view of Carpenter (US 2002/0059429 A1), in further view of official notice, and in further view of Ritche (US 2002/0194319 A1).

For claim 30,

- The combination of Yu, Carpenter, and official notice teaches the limitations of claim 2 for the reasons above.



Art Unit: 2114

- The combination of Yu, Carpenter, and official notice does not teach “the repeating the receiving ... source node”.
- However, Ritche teaches the repeating the receiving, computing, and comparing steps prior to transmitting the error report is used to determine whether information file errors were caused during or prior to communication of the information file from the source node (see [0067] lines 7-18 and [0009] lines 1-5).
- It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Yu, Carpenter, and official notice to include “the repeating the receiving ... source node”, as taught by Ritche, because both Yu and Ritche teach monitoring error when delivering files in a network therefore they are analogous arts; and to avoid making the wrong conclusions about a node, when the problem originated in the link (see [0009] lines 1-5), thereby enhancing reliability.

For claim 31,

- The combination of Yu, Carpenter, official notice, and Ritche teaches the limitations of claim 30 for the reasons above.
- Ritche further teaches preventing transmitting the error report upon determining that the information file errors were caused during communication (see [0014] lines 12-15: “appropriate job ticket” as preventing the transmission of the error report” for the “service ticket” as caused by communication).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YAIR LEIBOVICH whose telephone number is (571)270-3796. The examiner can normally be reached on Monday-Thursday 6:30AM to 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Badderman can be reached on (571)272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott T Baderman/  
Supervisory Patent Examiner, Art Unit 2114

Y.L.